



San Diego City Attorney **MICHAEL J. AGUIRRE**

NEWS RELEASE

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CITY'S PENSION CASE FINALLY HEADED FOR TRIAL, CITY ATTORNEY WILL ARGUE CASE TO RESCIND ILLEGAL PENSION BENEFITS

San Diego, CA: Superior Court Judge Jeffrey B. Barton has cleared the way for the City Attorney to pursue in court his contention that employee pension benefits granted in 1996 and 2002 were unlawful and must be rescinded. The trial is now expected to begin on October 25th.

"This is a major development for the City and the taxpayers of San Diego," said City Attorney Michael Aguirre. "We are closer to getting rid of a massive pension debt that is between \$500-\$700 million."

Judge Barton today issued his final rulings on separate summary judgment motions brought by the San Diego Employees' Retirement System (SDCERS) and a host of union intervenors.

In one of his rulings, the Judge granted SDCERS' motion to continue paying the contested pension benefits "unless and until they are rescinded, modified, or terminated."

On the motion brought by the unions, (Local 127 of the AFL-CIO, San Diego Firefighters Local 145, and the Municipal Employees Association), Barton denied their request for summary judgment that sought a determination that the employee retirement benefits granted from 1996 to the present are lawful.

"Another significant aspect of the SDCERS' case is that they are no longer aligned with the City's unions," said City Attorney Aguirre. "SDCERS has abandoned the position that the pension benefits were legally granted, which makes the City's position stronger since we are now facing fewer opponents."

The City Attorney is seeking the following court action based on violations of California Government Code section 1090's conflict of interest laws; the California Constitution Article XVI, section 18, which requires a City to seek approval of voters before creating certain financial liabilities; and the San Diego City Charter's section 99 Liability Limit Law, which establishes the "pay as you go" principle as a cardinal rule of municipal finance:

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- A. Rescind new pension benefits that were granted under the 1996 Manager's Proposal I, which included an unfunded increase in the retirement factor used to determine retirement benefits; purchase of service credits of up to five years which were priced below market value; and the Deferred Retirement Option Plan (DROP) that allowed a member to "retire" from the City and begin earning his or her retirement benefits while remaining employed by the City.
- B. Rescind new pension benefits that were granted under the 2002 Manager's Proposal II, which increased pension benefits without a funding source; and created the so-called "Presidential Benefit" whereby certain union presidents could have their union salaries counted along with their City salaries for the purposes of calculating their retirement benefit.

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